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EXAMINER	
FELTEN, DANIEL S	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TIMOTHY P. BARBER

Appeal 2009-009377
Application 09/741,207
Technology Center 3600

Before HUBERT C. LORIN, JOSEPH A. FISCHETTI and
BIBHU R. MOHANTY, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL[1]

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Timothy P. Barber (Appellant) seeks our review under 35 U.S.C. § 134 (2010) of the rejection of claims 1-8. We have jurisdiction under 35 U.S.C. § 6(b) (2010).

SUMMARY OF DECISION

We REVERSE. [2]

THE INVENTION

This invention is a method of "conveying via an e-mail a monetary value." Specification 1:5-7.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

> 1. A method of providing for a money transfer over a network, comprising steps in which:
>
> a) a stamp issuer provides to a sender a stamp having a face value and a lifespan both indicated on the stamp, the stamp being a string that is a concatenation of two or more fields including the face value and the lifespan, with at least one of the fields calculated according to a prescription involving a hashing or encryption of a concatenation of others of the fields or of some other field not part of the stamp;
>
> b) the sender affixes the stamp to an e-mail and sends the e-mail to a recipient; and

[2] Our decision will make reference to the Appellant's Appeal Brief ("App. Br.," filed Oct. 28, 2005) and Reply Brief ("Reply Br.," filed Apr. 10, 2009), and the Examiner's Answer ("Answer," mailed Jan. 9, 2007).

c) the recipient of the e-mail redeems the stamp for the face value by presenting the stamp to a predetermined entity;

wherein the predetermined entity provides the face value to the recipient only if the stamp is presented to the predetermined entity within the lifespan indicated on the stamp.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Kuzma	US 5,771,289	Jun. 23, 1998
Sundsted	US 5,999,967	Dec. 7, 1999
Messner	US 6,370,514 B1	Apr. 9, 2002

The Examiner states, "[a]n artisan would have also recognized the fact that a 'voucher' may provide a period of time (lifespan) through which the voucher is valid." Answer 4 [Hereinafter "Official Notice"]

The following rejections are before us for review:

1. Claim 1 is rejected under 35 U.S.C. §103(a) as being unpatentable over Kuzma and Messner.
2. Claims 2-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kuzma, Messner, and Sundsted.

ISSUE

The issue is whether claim 1 is unpatentable over Kuzma, Messner, and Official Notice. Specifically, the issue is whether the Examiner's proposed modification of Kuzma with Messner renders Kuzma

unsatisfactory for its intended purpose. The rejection of claims 2-8 as unpatentable over Kuzma, Messner, Official Notice, and Sundsted also turns on this issue.

ANALYSIS

The rejection of claim 1 under 35 U.S.C. §103(a) as being unpatentable over Kuzma, Messner, and Official Notice.

In the rejection, the Examiner concludes:

> It would have been obvious for an artisan of ordinary skill in the art to *substitute* the voucher feature of Messner for the stamp feature of Kuzma because an artisan would have found the voucher and the stamp art recognized equivalents to make payments for electronic goods and or services.

Answer 4 (emphasis added). The Appellant argues that substituting the voucher of Messner for the stamp of Kuzma renders Kuzma unsatisfactory for its intended purpose. Reply Br. 5-7.

Where the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, the proposed modification would not have been obvious. *See Tec Air, Inc. v. Denso Mfg. Mich. Inc.,* 192 F.3d 1353, 1360 (Fed. Cir. 1999); *In re Gordon,* 733 F.2d 900, 902 (Fed. Cir. 1984).

We find that substituting the voucher of Messner for the stamp of Kuzma would render Kuzma unsatisfactory for its intended purpose. Kuzma's intended purpose is to pay for the transmission of electronic data, and Kuzma accomplishes this by attaching electronic stamps to messages. *See* Kuzma col. 2, ll. 27-36. Modifying Kuzma to remove the stamp from the message and replace it with a voucher, which Messner describes as a gift

certificate or coupon for the recipient of the message (*see* Messner col. 2, ll. 61-64), would not allow for payment for the transmission of the electronic data.

Further, we note that Messner with the Official Notice alone does not teach the claimed stamp. The Examiner relied upon Kuzma to teach that the claimed stamp, which is presented by the recipient for redemption, is a string that is a concatenation of two or more fields that include a face value and a lifespan, with at least one of the fields calculated according to a prescription involving a hashing or encryption of a concatenation of others of the fields or of some other field not part of the stamp. Answer 3. Neither Messner nor Official Notice teaches this limitation.

Accordingly, we find that the Appellant has overcome the rejection of claim 1 under 35 U.S.C. § 103(a) as being obvious over Kuzma and Messner.

The rejection of claims 2-8 under 35 U.S.C. §103(a) as being unpatentable over Kuzma, Messner, Official Notice and Sundsted

This rejection is directed to claims dependent on claim 1, whose rejection we have reversed above. For the same reasons, we will not sustain the rejection of claims 2-8 over the cited prior art. *Cf. In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) ("[D]ependent claims are nonobvious if the independent claims from which they depend are nonobvious.").

DECISION

The decision of the Examiner to reject claims 1-8 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2010).

REVERSED

mls

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